

REMARKS

Claims 21 to 36 are added, and therefore claims 11 to 17, 19 and 20 to 36 are now pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph six (6) of the Office Action, claims 11 to 17, 19, and 20 were rejected under 35 U.S.C. § 102(b) as anticipated by Stam et al., U.S. Patent No. 5,923,027.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(a), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claims 11 and 19 have been rewritten to provide the feature that *the image sensor is focused on an external region beyond the vehicle such that a visual obstruction on the vehicle is blurrily imaged*. Support for these features may be found in the Substitute Specification, including, for example, at page 4, line 25 to page 5, line 3.

The Stam reference does not identically disclose (or even suggest) the feature that the image sensor is focused on an external region beyond the vehicle such that a visual obstruction on the vehicle is blurrily imaged, as provided for in the context of claims 11 and 19, as presented. In stark contrast to the present claims, the Stam reference explicitly states that “raindrops and other sources of moisture on the windshield [are] sharply focused.” (Stam, col. 3, lines 62 to 63 (emphasis added)). In addition, the Stam reference explicitly states that “objects at the approximate distance of the windshield 26 are sharply in focus.” (Stam, col. 4, lines 64 to 65; *see also* Stam, col. 8, line 29, and lines 34 to 35; and col. 10, lines 20 to 22, and lines 26 to 28). Thus, the Stam reference does not identically disclose (or even suggest) the feature that *the image sensor is focused on an external region beyond the vehicle such that a visual obstruction on the vehicle is blurrily imaged*, as provided for in the context of claims 11 and 19, as presented.

Independent of the above, the Office Action at pages 7 to 9 conclusorily asserts that *the image sensor is focused on an external region beyond the vehicle*, as in the present claims. The Office first asserts that “[t]he word ‘focus’ may be interpreted as ‘a point of concentration.’” (Office Action, p. 7). Although the Office Action cites MPEP § 2111, it is respectfully submitted that the Office has not followed the instructions of the cited section. Specifically, the scope of the claims is determined “not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’” (MPEP § 2111).

By asserting that the word “focus” may be interpreted as “a point of concentration” to mean merely a direction in which the sensor is pointed, the Office Action plainly has not interpreted the scope of the claims in light of the specification. In this regard, the Substitute Specification makes plain throughout that “focus” does not refer merely to a direction in which the sensor is pointed, but instead refers to the difference between a focused image and a blurry image. Thus, in accordance with MPEP § 2111, it is respectfully submitted that the Office’s convenient “interpretation” has not given the claims their broadest reasonable construction in light of the specification, and therefore, the Stam reference does not identically disclose (or even suggest) the feature that *the image sensor is focused on an external region beyond the vehicle*, as provided for in the context of claims 11 and 19, as presented.

Further, the Office also asserts that spot 70 of the Stam reference is an “external region beyond the vehicle.” (Office Action, p. 9). However, Figure 3 of the Stam reference clearly indicates that the spot 70 is on the windshield 26, and therefore on the vehicle. Thus, although the spot 70 may be on the exterior of the windshield 26, it is plainly still on the vehicle, and is therefore not in an external region beyond the vehicle. Thus, the Stam reference does not identically disclose (or even suggest) the feature that *the image sensor is focused on an external region beyond the vehicle*, as provided for in the context of claims 11 and 19, as presented.

Therefore, the Stam reference does not identically disclose (or even suggest) the feature in which *the image sensor is focused on an external region beyond the vehicle such that a visual obstruction on the vehicle is blurrily imaged*, as provided for in the context of claims 11 and 19, as presented.

Accordingly, it is respectfully submitted that claims 11 and 19, as presented, are allowable for at least the reasons explained above. Claims 12 to 17 depend from claim 11, and claim 20 depends from claim 19, and are therefore allowable for at least the same reasons as their respective base claims, as presented.

Withdrawal of the rejections of these claims is therefore respectfully requested.

New claims 21 to 36 do not add any new matter and are supported by the present application. Claims 21 to 31 depend from claim 19 and are therefore allowable for the same reasons as claim 19. Claims 32 to 36 depend from claim 11 and are therefore allowable for the same reasons as claim 11.

In sum, it is respectfully submitted that claims 11 to 17, 19 and 20 to 36 are allowable.

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CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

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Respectfully submitted,

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